IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION No. 764 OF 2001

PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA

PETITIONER :

Dwas Ram, aged about 27 years, son of Parasram Kurmi, resident of village Kasa, Block Nawagarh, Tah: Nawagarh, Post Godhana, dist. Janjgir-Champa (Chhattisgarh)

Vs.

RESPONDENTS :

1. State of Chhattisgarh through Secretary, Panchayat Department, D.K.Bhawan, Raipur (Chhattisgarh).

2. Sub-Divisional Officer, Janjgir, dist.Janjgir-Champa(Chhattisgarh).

3. Gopaldas, aged about 39 years, son of Baijudas, Sarpanch, village Panchayat, Kasa, Tah:Nawagarh, post Godhana, dist.Janjgir-Champa. (Chhattisgarh)

4. Returning Officer, Janpat Panchayat, Janjgir, dist.Janjgir-Champa (Chhattisgarh).

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

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DETAILS OF THE PETITION

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(30)

आदेश पत्रक

W.P. No. 764/2001
मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	3/5/2001 Heard Smt. Anju Ahuja, learned counsel for the petitioner and Mr. Ranvir Singh, learned GA for the State. O R D E R The order impugned in this petition was passed by the Sub-Divisional Officer, Janjgir on 21/12/2000 by which the election petition filed by the writ petitioner was dismissed on the ground that the Presiding Officer was not impleaded as a party and also on the further ground that there was ~~some~~ no illegality in the ~~matter~~ order produced before him. It is submitted by learned counsel for the petitioner that the order of dismissal was issued without affording any opportunity of being heard to the writ petitioner. On the other hand, Mr. Ranvir Singh, learned GA for the State submits that under the relevant provisions of law prescribed in this regard the impugned order passed by the Sub-Divisional Officer is appellable before the Collector. It is further contended by Mr. Ranvir Singh that in fact, if aggrieved by the order of Collector, still the matter can be agitated before the Commissioner. Since there are some other remedies available for the petitioner, it is contended, that the	

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petitioner ought to have exhausted those remedies before he approaches this Court under Article 226 of the Constitution of India.

On perusal of the averments made in the writ petition particularly the impugned order and also after hearing counsel representing the parties in the peculiar facts and circumstances of this case, though there is a provision for appeal, in order to expedite the matter particularly because of the fact that the petition was dismissed without giving the petitioner any opportunity of being heard and also to lead evidence in support of his contention, it will be fair to pass the following order:

1) In my view, the Presiding Officer in the present circumstances is not necessary party;

2) The Sub-Divisional Officer is incumbent to examine the petition on merit which will include giving opportunity to the parties to lead evidence in support of their rival contentions;

3) To give adequate opportunity of being heard, is a basic right for every citizen, let alone a litigant.

4) Accordingly, the impugned order passed by the SDO onn 21/12/2000 in case no. 9C-144/2000, is set aside. The learned SDO shall hear the parties on merit and dispose of this petition by speaking order. The SDO shall make an endeavour to dispose of the entire matter within a period of three months from the date of receipt of this order.

GRPRJ—FS/311—1/2001—50,000.

XI-HC-22

(31)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

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Smt. Anju Ahuja, learned counsel for the petitioner submits that it will be ~~judged~~ must to restrain the respondent no.3 to act as Sarpanch. ~~In~~ I think this request should be made before the Sub-Divisional Officer, who is competent to pass any order in the application. In other words, let the petitioner approach the Court for necessary interim relief.

With the aforesaid observations and directions, this petition is disposed of.

Sd/-
Chief Justice

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